

Dear Jim,

9/26/84

While walking this morning I realized that in writing you about how to fight such things as the CIA exemption bill I should have included explanations. Not because I had not made them before but because they clearly were not in your mind. So I'll try to spell it out some.

You had two adversaries, the CIA and the ACLU brass. The more vulnerable adversary was the ACLU. It was in a potentially very weak position and without its support, you told me, the bill had no chance. So, to fight them successfully, you had to go after their weaknesses. As long as you debated with them on interpretations you were addressing their strength. This does not mean that their interpretations did not require rebuttal. They did.

Remember the World War II story that I repeat often and learned in my youth, of the defeated French general who was left flank was turned, his right crumbled and his center of line in retreat? He said, "Good - I attack!" He did just that and he won. He did more than prevent defeat. His overwhelming enemy's weakness was that he was not prepared for surprise, despite greater strength and firm possession of the initiative.

I must have told you how I was able to lobby through an extension of the life of the Senate Civil Liberties Committee over the strong opposition of its chairman, all the great corporations who then provided the election and re-election money, and even FDR, when I was working with Gardner "Pat" Jackson and he was staying drunk. It was not impossible, although everyone thought it was, and many of the things I was able to see and Pat could do - in fact attempted only because he was drunk - worked. The key thing was, as I now recall, his, not mine. How to get FDR publicly for what he was so strongly against in private? It was simple. We primed a great reporter of that day, who was also a very decent human being and a concerned one, to pop the question to FDR at one of his press conferences, then more free and open than now. For FDR to oppose investigation of the terrible situation so effectively presented in Steinbeck's *Grapes of Wrath* was like opposing motherhood. He could not. And he did not.

So, you had to try to get the ACLU in a similar position, one in which they'd be seriously embarrassed if they maintained the position in which they were. This means that above all you had to attack the bill as police statism, which it is, and that also made the CIA's known record a central issue. You could have had some Members saying this effectively and probably repeatedly through different Members, in one-minute speeches, all it takes. (They can extend their remarks, of course.) Whether or not this would have been picked up by the press, print and electronic, we don't know, but it had a better chance than anything you did. Making a record reached Members, and gave problems to some in and of itself, whether or not this would show because the liberals would thereafter always be subject to attack or criticism from the Congressional Record alone. If it went no farther than appearing in the Record, it would have embarrassed the CIA enormously, more yet with any attention. The mere fact of existence of the record that could haunt them in the future would have had this effect. Because, however their intellectualizations and explanations went, they were immunizing that evil of the CIA of the past and present into the future, with an obvious invitation to do worse in the future because perpetual secrecy was guaranteed by the ACLU itself.

I know I kept after you on that issue, so you were not unaware of it. And I guess that after all those years with Bud I'd just assumed you knew about how the Congress works, including those one-minute speeches. Which, by the way, can be reprinted inexpensively and sent out under frank.

If you are really interested I'll take more time in the future. What I'm really addressing, I suppose, is a mind set that freezes you into self-defeat.

If you want illustrations I'll provide them. And I'll restrict myself to what would have required very little time and effort.

I want you to be more effective and more successful, most of all for yourself, and if as a minority you are going to have a better record against the majority, or if representing the weak you are to really prevail against the strong, it is something you are going to have to first understand and then practise. The world is this way, no the way of debates or intellectualizations or of academic concepts.

If Glasser answers me at all he'll not except from bankruptcy tell me I imagined all I said. You'll note that Lynch said nothing.

If you could only remember how effective you were when you confronted Stokes, on his turf and in his terms, you'd go a long way toward beginning understanding. And, under the circumstances, in context and on the record, you succeeded. Moreover, the effort to do more to your client John Ray was aborted. Stokes went too far, and how much too far he had to go to get you to stand up and fight! and you did the right thing, you exploited it. Then, with a little prodding did the same with Fauntroy.

Howas the ACLU going to respond to the police state charge? By defending CIA? Reagan's fiat ordering it to do what the law prohibits? Any response might have involved it in a serious mistake, and no response was acknowledgement.

Before getting back to other things that have accumulated: Ed's been ill and I finally got her to go to the doctor and she has what is epidemic hereabout, a bronchial infection now under medication. He thinks it will take a week or so to clear up.

Alan Fitzgibbon's opinion was academic not political and if you'll like send him a copy. It was both safe and necessary to illustrate with the JFK requests for a number of reasons. Mine, for example, are neutral. How in the world could CIA have its representations believed when you have requests of almost a decade that remain ignored? How can they possibly claim that there is no public interest, that it is to any degree exempt, even what they have any legitimate excuse for withholding? (The can redact only.) And those are both operational records and disclosed. To the degree of the thousands of pages that are disclosed. You don't necessarily suggest all the nuttines when you say that historicans, writers and the people require access to nonexempt information about the greatest of all subversions in our system. And you laso make comprehensible that the CIA withholds just to withhold, to avoid being embarrassed by its own record, and not from any need or backlog or any other legit. reason. And that they have disclosed all those operational pages, as they also did with their mindbending, punctures their and the ACLU's fiction that the operational records are never disclosed.

I've got some things to clear up before I prepare a response to Whittaker.

Best,



P.S. I do hope Alan is feeling better